

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF TEXAS

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4 HONORABLE LEE H. ROSENTHAL, CHIEF JUDGE PRESIDING

5 UNITED STATES OF AMERICA, Case No. 4:17-cr-00116

6 Plaintiff,

7 vs.

8 THOMAS DODD,

9 Defendant.

10 SENTENCING HEARING

11 OFFICIAL REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 Houston, Texas

13 December 12, 2018

14 APPEARANCES:

15 For the Plaintiff: Melissa J. Annis, Esq.

16 For the Defendant: David B. Adler, Esq.

17
18 Reported by: Nichole Forrest, RDR, CRR, CRC
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23 Proceedings recorded by mechanical stenography. Transcript
24 produced by Reporter on computer.
25

PROCEEDINGS

(The following proceedings held in open court.)

* * *

MR. ADLER: Dave Adler for Mr. Dodd, who's also present in the courtroom.

THE COURT: Good morning. Thank you.

Mr. Adler, have you and your client reviewed the presentence report, the objections, the addendum and motions?

MR. ADLER: We have, Your Honor.

THE COURT: Let me take up the government's objections first. I believe that almost all of them were agreed to in the revised presentence report. They were mostly clarifications.

Are there any other objections that are outstanding other than the vulnerable victim?

MS. ANNIS: No, Your Honor. We realize the Court's already ruled on that.

THE COURT: Right. So that objection is denied.

Defendant had a number of objections. Did you want to amplify any of those?

MR. ADLER: No, Judge, and a lot of them are more clarifications than actual objections to calculations.

THE COURT: Right. So the objection to paragraph 44

1 of the PSR and to paragraph 41 goes to certain impressions
2 or limits on the knowledge that Mr. Dodd had. I'm going to
3 overrule both of those objections.

4 PSR amply supports the finding that Mr. Dodd did have
5 significant knowledge of the various accounts. But it's not
6 necessary, nor is it suggested, and the clarification makes
7 clear, that he had to know about each and every one of them.

8 Similarly, he was aware of the charitable -- that the
9 charitable functions of the Roth Center that he was
10 soliciting on behalf of didn't occur whether he knew the
11 actual status of the entity or not. It's irrelevant for
12 guideline or 3553(a) factors. And it's overruled.

13 That takes care of, I think, the objections to paragraph
14 45 and 48 too.

15 Paragraph 46, I think, again, there is ample support in
16 the PSR that -- as to how Mr. Dodd paid for the trip and the
17 commission amount and the basis from which it was solicited,
18 which deals with the objection as to paragraph 40 as well.

19 And as to paragraph 58, again, Mr. Dodd knew that
20 Mr. Stockman was using funds he had solicited from donors
21 for purposes other than those that had been represented.
22 And Mr. Dodd was among those who received personal benefits
23 from those funds.

24 So paragraph 58 objections are overruled.

25 Paragraph 61, even if Mr. Dodd did some of the acts that

1 are described in this paragraph and others in the PSR to
2 accommodate Mr. Stockman rather than to perpetuate a scheme,
3 the accommodation was the perpetuation of the scheme. So
4 it's a circular objection that is overruled.

5 MR. ADLER: And 61, I think, unless I have a typo in
6 my papers, Your Honor, was to the objection about the
7 sophisticated means enhancement.

8 THE COURT: No, I don't believe it is. Part of it
9 is. There are two parts to the objection defined in
10 paragraph 61. The first part is overruled. The second part
11 is the sophisticated means enhancement. And again, I think
12 the enhancement is properly applied.

13 This was not a simple scheme. This was a pretty
14 complicated scheme, conduit contributions, soliciting and
15 improperly diverting solicited funds for over -- or
16 improperly applying solicited funds, using fraudulent
17 pretenses in the various filings, corporate sales, different
18 accounts, modification of IRS forms. None of that is
19 simple. It is all sophisticated.

20 The objection to loss amount, probation officers
21 concurred and revised paragraphs 59 and 70. Holding
22 Mr. Dodd liable for a total of 450,000 obtained from
23 Rothschild -- from Mr. Rothschild and 350,000 from
24 Mr. Uihlein. The other 450,000 plus has been removed as to
25 Mr. Dodd. And the clarifications as set out in the final

1 paragraphs have been adopted in the addendum.

2 Are there any other objections?

3 MR. ADLER: No, Your Honor.

4 THE COURT: All right. Under the PSR without taking
5 into account the government's motion for a downward
6 departure, total offense level is 22. The original criminal
7 history, the range is 41 to 51 months.

8 There is a fine, but I'm not going to impose one given
9 the restitution obligation of \$800,000.

10 The government has asked for a 5K and seeks an offense
11 level of 18, which would make the guideline -- bottom end of
12 the guideline range 27 months, I believe.

13 At this time, I adopt the PSR. I've read the motion. I
14 read the materials that were submitted in the very thorough
15 sentencing memorandum.

16 I would invite Mr. Adler, Mr. Dodd, and then the
17 government to make any statements they wish.

18 MR. ADLER: Thank you, Your Honor.

19 I appreciate --

20 THE COURT: Any victims or others in the audience,
21 if there are victims or others in the audience who wish to
22 speak, I'm happy to hear them as well.

23 MR. ADLER: I don't think there are any.

24 THE COURT: I don't think there are any either.

25 Did the government give notice to the victims?

1 MS. ANNIS: Yes, Your Honor.

2 THE COURT: Thank you.

3 MR. ADLER: Thank you, Your Honor.

4 And I also say thank you to the government for filing the
5 5K1 motion on behalf of Mr. Dodd.

6 I will tell you from early in my representation with him,
7 Mr. Dodd wanted to plead guilty. This was not a situation
8 where he was really even considering going to trial. He
9 knew what he had done.

10 As the PSR points out, he had, prior to this, an
11 unblemished record, and he was a very enthusiastic supporter
12 of certain political causes. I will tell you his political
13 views often differ from mine on the occasion we've discussed
14 them in this case, but I don't doubt the sincerity of his
15 belief in those views. And, unfortunately, I think that
16 played a role in former Congress Stockman's ability to
17 convince Mr. Dodd to go down this path.

18 Mr. Dodd did not start out committing crimes with
19 Mr. Stockman, was not aware up to a certain point in time
20 what Mr. Stockman was doing, but certainly, Mr. Dodd did
21 become aware at some point and continued on, and that's why
22 he pleaded guilty and that's why he's standing here.

23 I think the Court will recall Mr. Dodd's testimony here
24 in this courtroom during Mr. Stockman's trial. I certainly
25 believe it was truthful. He told what he remembered

1 regardless of whether it helped the government or helped
2 Mr. Stockman. I don't think there's more that could have
3 been asked of him.

4 The government, frankly, has been very respectful and
5 professional with him during all the meetings that we've had
6 with them, but I do ask for the Court to consider going
7 lower than the 27 months. I think the Court is in a
8 position this morning where the decision has to be made
9 between appropriately punishing his conduct and also sending
10 the message that if you stand up and do the right thing, you
11 will be appropriately treated.

12 THE COURT: Are you asking for 12 months and a day?

13 MR. ADLER: I am asking for 12 months and a day.

14 THE COURT: Somehow, I intuited that.

15 MR. ADLER: I'm sorry?

16 THE COURT: Somehow I intuited that.

17 MR. ADLER: Yeah. You know, that's not a light
18 sentence for a 40-year-old man with no criminal record. I
19 mean, 12 months and a day is good chunk out of his life. It
20 certainly damaging to his professional career, but I do
21 think it sends the message that this conduct will not be
22 tolerated, but that if you stand up and own up to what
23 you've done, that will be taken into account as well.

24 THE COURT: What would justify that sentence as
25 compared to someone else other than Mr. Stockman who was

1 involved in the scheme?

2 MR. ADLER: Well, it was a fairly limited scheme,
3 obviously. And I know, you know, there's another
4 co-defendant still waiting to be sentenced.

5 THE COURT: Right.

6 MR. ADLER: I could certainly envision a situation
7 like this where another individual who participates either
8 doesn't cooperate or cooperates halfheartedly. Mr. Dodd was
9 available for every -- I don't know how many hours we spent
10 meeting with the government. There were times when it was
11 just e-mails that -- you know, rather than set up a whole
12 meeting, it was just could you ask Mr. Dodd this.

13 And I will tell you he is very -- you'll hear from him in
14 a minute, but he is very disappointed in himself for having
15 gone down this road. I think Mr. Dodd went to Washington
16 with the best intentions. I know there are, obviously, a
17 lot of complaints about what goes on in Washington nowadays,
18 probably have been for hundreds of years.

19 THE COURT: Fortunately, most of whom are not along
20 the lines of going to Washington to steal other people's
21 money.

22 MR. ADLER: Absolutely. And Mr. Dodd did not go to
23 Washington to steal other people's money. That's what I was
24 talking about earlier where, you know, he's not a kid. And
25 I don't want to use an inappropriate term, but he sort of

1 had this youthful exuberance about, hey, I'm in the center
2 of power, I'm in the halls of power, I'm working on things
3 that I believe in.

4 And then he realizes at one point, hey, Mr. Stockman has
5 been lying to him about where this money is going. And at
6 that fork in the road, obviously, Mr. Dodd made a very bad
7 decision and went down the path of helping Mr. Stockman.

8 I do want to point out one -- it may seem trivial, but
9 certainly to me and my client, it's not. In some of the
10 probation office papers, the sentencing recommendation, I
11 think, talks about Mr. Dodd diverted money to his own use.
12 And really what happened is the money went from the donors
13 to Mr. Stockman. And then Mr. Dodd was paid out of that.

14 I don't want the Court to have the misunderstand --

15 THE COURT: I understand that.

16 MR. ADLER: Okay. That's really all I have, Judge.
17 Again, 12 months and a day is not a short sentence for a man
18 with no prior criminal history.

19 I know Mr. Dodd has been waiting months and months to
20 apologize publicly for what he's done, and I think he's got
21 a statement he'd like to read this at this point.

22 THE COURT: Mr. Dodd?

23 THE DEFENDANT: Thank you, Your Honor.

24 I fully accept responsibility for the actions --

25 MR. ADLER: Slow down. Slow down. Slow down. Back

1 up off the mic.

2 THE COURT: Do you want some water?

3 THE DEFENDANT: Yes, please.

4 THE COURT: There should be some on the table.

5 MR. ADLER: Take your time. Take a deep breath.

6 THE DEFENDANT: I fully accept responsibility for
7 the actions that brought me before you today. I improperly
8 solicited funds from the donors while working for
9 Congressman Steve Stockman and assisting Jason Posey. It
10 was wrong, and I'm deeply ashamed.

11 I'm ashamed because --

12 MR. ADLER: Take a deep breath. Take a deep breath.
13 You want me to read it or you going to be okay?

14 THE DEFENDANT: No, I'll do it.

15 MR. ADLER: Okay.

16 THE DEFENDANT: I'm deeply ashamed because it goes
17 against everything that I've always believed throughout my
18 career.

19 For nearly 20 years, I built a reputation on serving
20 donors and connecting them with causes that I care about. I
21 was -- I was very good at my job because I cared about the
22 donors and I wanted the -- and I wanted to help the donors
23 achieve their philanthropic goals. And yet, I completely
24 failed the donors in this case. I failed to ensure that
25 their money would go in the way that it was promised. I

1 accepted and passed conduit contributions to friends of
2 Steve Stockman and then compounded my mistake by making
3 incorrect and untrue statements to the Federal Election
4 Commission.

5 Your Honor, I deeply regret my actions, my poor judgment
6 and harm that I've caused these donors. And I want to
7 publicly apologize for the donors and their families. And I
8 can't undo what I've done, but I'll do everything in my
9 power to make the donors whole again.

10 And after -- after my sentencing, I'll, you know, seek
11 out private sector employment and work very hard to make
12 sure that they're fully repaid.

13 Thank you, Your Honor, and I humbly await your decision.

14 MR. ADLER: Okay. Put that away.

15 THE COURT: Thank you, Mr. Dodd.

16 Ms. Annis, the defendant's proposed a request for 12
17 months and a day.

18 What says the government?

19 MS. ANNIS: Your Honor, we think departure to that
20 extent would not be appropriate under the facts of this
21 case. We understand that Mr. Dodd is sincere in his
22 statement to the Court.

23 I think one of the most troubling things about this case
24 is it's not just about the donors. Mr. Dodd also failed the
25 voting public by his conduct involving the conduit

1 contributions, in lying to the FEC that helped conceal what
2 was going on in that particular campaign.

3 We think under all the circumstances of this case, 27
4 months is the appropriate sentence.

5 THE COURT: All right.

6 Mr. Adler, anything further?

7 MR. ADLER: No, Your Honor.

8 THE COURT: May I see probation.

9 (Off the record.)

10 THE COURT: This is a troubling case on many levels,
11 and everybody knows it.

12 I recognize, Mr. Dodd, that you were used, you were
13 exploited by someone who in that regard was no less than
14 cruel, but that doesn't make you a victim. It makes you a
15 participant. I recognize that there may have been
16 constraints on what you perceived as your ability to do the
17 right thing when you were confronted with the choice between
18 what you knew to be wrong and what you did.

19 I recognize that fear of losing your job, fear of not
20 being able to get another job and the kind of government
21 position that you clearly wanted, had experience in, I
22 recognize that all of those things were constraints, but you
23 made the choices you made. They're consequential and the
24 consequences are what we're here to decide because I have no
25 doubt that you knew that what you were doing was corrosive,

1 destructive to the institutions that you hold dear that we
2 depend on.

3 I recognize that you never would have come up with this
4 scheme, but you were instrumental in making it work for a
5 long time. So what do we do with all of that?

6 I agree with the government; 12 months and a day just
7 doesn't quite get us there. But I don't think that the
8 sentence the government has asked me to impose, 27 months,
9 is necessary nor justified by the 3553(a) factors and the
10 extent of the cooperation that the government acknowledges
11 supports a somewhat lower sentence as well.

12 It is the Court's judgment that considering how you stand
13 in relationship to Mr. Stockman and to Mr. Posey and to
14 yourself and what you did when you realized that it had been
15 detected and you had been detected, that the appropriate
16 sentence, balancing the guideline objectives, the nature and
17 quality of the criminal acts, and of your cooperation, that
18 the appropriate sentence is 18 months. And it is this
19 Court's judgment. That is 18 months as to each of Counts 1
20 and 2 to run concurrently.

21 When you are released from prison, you will be placed on
22 supervised release for three years. Within 72 hours of your
23 release from the custody of Bureau of Prisons, you must
24 report in person to the probation office and the district to
25 which you are released. While on supervised release, you

1 must comply with all regulations and rules. They include
2 that you not commit any federal, state, or local crime, and
3 because I am imposing restitution, you must provide the
4 probation officer with access to any requested financial
5 information and -- which the probation office we share with
6 the U.S. Attorney's Office, you are prohibited from
7 possessing a credit access device, that's a credit card,
8 unless you are first authorized to possess one or have
9 access to one by the probation officer, and you may not
10 incur any credit charges or open additional lines of credit,
11 including a credit card, without the advance approval of the
12 probation officer.

13 You are liable for restitution in the amount of \$385,000
14 to the Rothschild Foundation, 65,000 to the Rothschild's
15 Charitable Foundation, and 350,000 to the Ed Uihlein Family
16 Foundation. That's a total of \$800,000 owed jointly and
17 severally with Mr. Stockman and in the full amount and
18 Mr. Posey, the amount of \$564,718.55.

19 The payees will be specified, the address is in the
20 judgment, payments duly paid through the United States
21 District Clerk of this district.

22 Your restitution obligation is not affected by payments
23 made by the co-defendants except that no further payment is
24 required after the sum of all payments paid by all
25 defendants fully covers the compensable losses.

1 You also owe the United States the mandatory assessment
2 of \$200. That's due immediately.

3 The balance of the restitution is due, first in 50
4 percent of the wages earned in prison under the inmate
5 financial responsibility program, and then in monthly
6 installments of \$500 to begin 60 days after you are released
7 from prison to supervised release.

8 Is there any -- I assume voluntary surrender?

9 MS. ANNIS: We have no objection.

10 THE COURT: So ordered.

11 Is there any request for designation?

12 MR. ADLER: If I could have a moment.

13 Judge, understand that it's just a recommendation to the
14 Bureau of Prisons, if the Court would consider making the
15 recommendation that he be placed in the Delaware area where
16 his family is, it would accommodate his parents' ability to
17 visit him.

18 THE COURT: I will make that recommendation.

19 MR. ADLER: Thank you, Your Honor.

20 THE COURT: Did you have anything further,
21 Ms. Annis? It looked like you did.

22 MS. ANNIS: You previously signed a form of order to
23 the money judgment. We would like to make it final at this
24 point and include it in the judgment.

25 THE COURT: All right. It will be. Thank you.

1 Anything further?

2 THE UNITED STATES MARSHAL: Could he come to the
3 10th floor for processing?

4 THE COURT: That's fine. Thank you.

5 I don't believe there are any appellate grounds that
6 survive the plea agreement. If you believe differently,
7 Mr. Dodd, you must file your notice of intent to appeal
8 within 14 days from the date judgment is entered. If you
9 can't afford a lawyer, you may ask the Court to appoint one.
10 Do you understand those rights?

11 THE DEFENDANT: I do.

12 THE COURT: Thank you, sir.

13 MR. ADLER: Thank you.

14 THE COURT: And the voluntary surrender will not be
15 until after the holidays.

16 MR. ADLER: Thank you, Your Honor.

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20 (Proceedings concluded.)

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C E R T I F I C A T E

I hereby certify that pursuant to Title 28,
Section 753 United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings in the above matter.

Certified on March 3, 2019.

/s/ Nichole Forrest
Nichole Forrest, RDR, CRR, CRC

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